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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,731	09/19/2003	Lederer Gabor	GL13	6068
25305	7590	02/23/2005	EXAMINER	
ISRAEL NISSENBAUM 1038-56TH ST BROOKLYN, NY 11219			CRANSON JR, JAMES W	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/666,731

Applicant(s)

GABOR, LEDERER

Examiner

James W. Cranson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 7 is/are rejected.
- 7) ☒ Claim(s) 3-6 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 7 are rejected under 35 U.S.C. 103(a) as being obvious over USPN 1,479,860 to Lewis in view of USPN 6,066,924 to Lederer or US 2005/0002188 to Bucher et al.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or

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subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Lewis discloses an electronic candle comprising batteries, battery compartment, conductive plates and having the batteries move to make or break the circuit. Lewis does not disclose candle flicker emulation circuitry. Both Lederer and Bucher teach the use of candle flicker emulation circuitry.

Regarding claim 1, An electronic candle comprising an open ended housing body (figures 1,2) with at least one battery compartment (3) configured for containing at least one battery therein (11,12), each of said batteries having respective positive and negative terminals on the opposite ends (figures 1,2) thereof; wherein said battery compartment is provided with conductive end plates (6,14), with said batteries being in electrical contact with one of said plates (figure 2) and wherein said electronic candle comprises means for causing batteries contained in the battery compartment, to move into electrical contact with the other of said plates to complete a circuit; (column 2, lines 75-80, column 3, lines 52-64) and out of said contact to break the circuit ( column 4, lines 66-80); said candle further comprising a light source (7), having candle flicker emulation circuitry electrically powered by such completed circuit to provide light from the electric candle.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Lewis with candle flicker emulation circuitry as taught by Lederer and Bucher. The

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reason is that it is well known in the illumination art to simulate the light produced by a burning object such as a candle flame (Bucher,[0002]).

Regarding claim 2, according to claim 1, wherein housing comprises candle emulation form (figures 1,2 Lewis, figure 2, Bucher).

Regarding claim 7, according to claim 1, wherein at least one of said plates comprises means for ensuring proper terminal placement of said batteries (Lewis, figures 1, 2).

***Allowable Subject Matter***

Claims 3-6, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 3 adds that a translucent decorative enclosure means are integrated with the housing body to enclose the light source there within to the limitations of claim 1.

Claim 4 adds that lockable means for preventing removal of said plates from said housing thereby blocking access to said batteries for removal to the limitations of claim 1.

Claim 5 adds that the candle comprises indicia displaying means for removably displaying printed indicia through a removable transparent protective element to the limitations of claim 1.

Claim 6 adds that the candle comprises openable receptacle means for enclosed placement of mementos to the limitations of claim 1.

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Claim 8 adds that the positive terminal of the battery comprises an extending nipple member and said negative terminal comprises a substantially flat element and wherein terminal placement means comprises protrusion elements and other limitations to the limitations of claim 7.

***Conclusion***

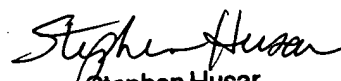
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are USPN 5,863,108 to Lederer and USPN 4,864,474 to Maglica.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Cranson whose telephone number is 571-272-2368. The examiner can normally be reached on Mon-Fri 8:30A.M.- 5:00P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandy O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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Stephen Husar  
Primary Examiner